



February 15, 2000

Mr. Ric Gonzalez
Neiman & Barnes, L.L.P.
P.O. Box 777
Lewisville, Texas 75067

OR2000-0527

Dear Mr. Gonzalez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 132426

The City of Lewisville Police Department (the "department") which you represent, received a request for information related incidents reported by the requestor. You have submitted two incident reports to this office for review. You indicate that you have released the front page information from these reports and claim that the remainder of these reports is excepted from disclosure under section 552.108(a)(1) of the Government Code. You have not raised an objection to the release of any other responsive information, or submitted such information to this office for inspection. We assume all responsive information not submitted to this office for review has been released to this requestor. If not, it must be released now. We have considered the exception you claim and reviewed the submitted information.

Section 552.108(a)(1) excepts from public disclosure information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime if release of the information would interfere with the detection, investigation, or prosecution of crime. We generally presume that section 552.108(a)(1) excepts information that relates to a pending or ongoing investigation or prosecution. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases); Open Records Decision No. 216 (1978). In this case, we cannot determine from your comments or the documents themselves if the subject investigations are ongoing, or what, if any, final disposition of the cases resulted from the investigations. We conclude that you have not demonstrated that release of the responsive information is excepted by section 552.108.

You also argue generally that if the information is released, witnesses would be subject to harassment. We note that the alleged victim is the requestor. A governmental body may not withhold information from a requestor on the basis of laws intended to protect that person's privacy interests. Gov't Code § 552.023. The information must therefore be released to this requestor. However, if the city receives a subsequent request for this information, you are cautioned to again request the opinion of this office before releasing the information to a subsequent requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

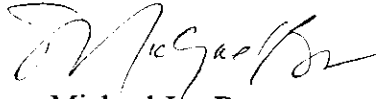
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for

contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Jay Burns". The signature is fluid and cursive, with the first name "Michael" being the most prominent part.

Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/nc

Ref: ID# 132426

Encl Submitted documents

cc: Ms. Barbara Wood
1915 Sandy Lake Road
Box 92
Carrollton, Texas 75006
(w/ Gonzales 12/16/99 letter)